



Rep. Robert Rita

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LRB097 15304 CEL 67826 a

1 AMENDMENT TO HOUSE BILL 4313

2 AMENDMENT NO. _____. Amend House Bill 4313 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. The Regulatory Sunset Act is amended by
5 changing Section 4.23 and by adding Section 4.33 as follows:

6 (5 ILCS 80/4.23)

7 Sec. 4.23. Acts and Sections repealed on January 1, 2013.
8 The following Acts and Sections of Acts are repealed on January
9 1, 2013:

10 The Dietetic and Nutrition Services Practice Act.

11 The Elevator Safety and Regulation Act.

12 The Fire Equipment Distributor and Employee Regulation Act
13 of 2011.

14 ~~The Funeral Directors and Embalmers Licensing Code.~~

15 The Naprapathic Practice Act.

16 The Professional Counselor and Clinical Professional

1 Counselor Licensing Act.

2 The Wholesale Drug Distribution Licensing Act.

3 Section 2.5 of the Illinois Plumbing License Law.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-1499, eff. 1-18-11.)

5 (5 ILCS 80/4.33 new)

6 Sec. 4.33. Act repealed on January 1, 2023. The following
7 Act is repealed on January 1, 2023:

8 The Funeral Directors and Embalmers Licensing Code.

9 Section 5. The Funeral Directors and Embalmers Licensing
10 Code is amended by changing Sections 1-5, 1-10, 1-15, 1-20,
11 1-30, 5-5, 5-10, 5-15, 5-20, 10-5, 10-20, 10-30, 10-35, 15-5,
12 15-15, 15-16, 15-20, 15-21, 15-22, 15-25, 15-40, 15-41, 15-45,
13 15-46, 15-50, 15-65, 15-70, 15-75, 15-76, 15-77, 15-80, 15-85,
14 15-91, and 20-15 and by adding Sections 5-18, 10-38, 10-43,
15 15-18, 15-19, and 15-115 as follows:

16 (225 ILCS 41/1-5)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 1-5. Legislative intent. The practice of funeral
19 directing and embalming in the State of Illinois is declared to
20 be a practice affecting the public health, safety and welfare
21 and subject to regulation and control in the public interest.
22 It is further declared to be a matter of public interest and
23 concern that the preparation, care and final disposition

1 ~~disposal~~ of a deceased human body be attended with appropriate
2 observance and understanding, having due regard and respect for
3 the reverent care of the human body and for those bereaved and
4 the overall spiritual dignity of every person ~~man~~. It is
5 further a matter of public interest that the practice of
6 funeral directing and embalming as defined in this Code merit
7 and receive the confidence of the public and that only
8 qualified persons be authorized to practice funeral directing
9 and embalming in the State of Illinois. This Code shall be
10 liberally construed to best carry out these subjects and
11 purposes.

12 (Source: P.A. 87-966.)

13 (225 ILCS 41/1-10)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 1-10. Definitions. As used in this Code:

16 "Address of record" means the designated address recorded
17 by the Department in the applicant's or licensee's application
18 file or license file. It is the duty of the applicant or
19 licensee to inform the Department of any changes of address and
20 those changes must be made either through the Department's
21 website or by contacting the Department.

22 "Alkaline hydrolysis" means the reduction of a dead human
23 body to essential elements through exposure to a combination of
24 heat and alkaline hydrolysis and the repositioning or movement
25 of the body during the process to facilitate reduction, the

1 processing of the remains after removal from the alkaline
2 hydrolysis chamber, placement of the processed remains in a
3 remains container, and release of the remains to an appropriate
4 party. Alkaline hydrolysis is a form of final disposition.

5 "Applicant" means any person making application for a
6 license ~~or certificate of registration~~. Any applicants
7 ~~applicant~~ or people ~~any person~~ who hold ~~holds~~ themselves
8 ~~himself~~ out as applicants are ~~an applicant is~~ considered
9 licensees ~~a licensee~~ for purposes of enforcement,
10 investigation, hearings, and the Illinois Administrative
11 Procedure Act.

12 "Board" means the Funeral Directors and Embalmers
13 Licensing and Disciplinary Board.

14 "Certificate of Death" means a certificate of death as
15 referenced in the Illinois Vital Records Act.

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "Funeral director and embalmer" means a person who is
19 licensed and qualified to practice funeral directing and to
20 prepare, disinfect and preserve dead human bodies by the
21 injection or external application of antiseptics,
22 disinfectants or preservative fluids and materials and to use
23 derma surgery or plastic art for the restoring of mutilated
24 features. It further means a person who restores the remains of
25 a person for the purpose of funeralization whose organs or bone
26 or tissue has been donated for anatomical purposes.

1 "Funeral director and embalmer intern" means a person
2 licensed by the Department ~~State~~ who is qualified to render
3 assistance to a funeral director and embalmer in carrying out
4 the practice of funeral directing and embalming under the
5 supervision of the funeral director and embalmer.

6 "Embalming" means the process of sanitizing and chemically
7 treating a deceased human body in order to reduce the presence
8 and growth of microorganisms, to retard organic decomposition,
9 to render the remains safe to handle while retaining
10 naturalness of tissue, and to restore an acceptable physical
11 appearance for funeral viewing purposes.

12 "Funeral director" means a person, known by the title of
13 "funeral director" or other similar words or titles, licensed
14 by the Department ~~State~~ who practices funeral directing.

15 "Funeral establishment", "funeral chapel", "funeral home",
16 or "mortuary" means a building or separate portion of a
17 building having a specific street address or location and
18 devoted to activities relating to the shelter, care, custody
19 and preparation of a deceased human body and which may contain
20 facilities for funeral or wake services.

21 "Licensee" means a person licensed under this Code as a
22 funeral director, funeral director and embalmer, or funeral
23 director and embalmer intern. Anyone who holds himself or
24 herself out as a licensee or who is accused of unlicensed
25 practice is considered a licensee for purposes of enforcement,
26 investigation, hearings, and the Illinois Administrative

1 Procedure Act.

2 "Owner" means the individual, partnership, corporation,
3 limited liability company, association, trust, estate, or
4 agent thereof, or other person or combination of persons who
5 owns a funeral establishment or funeral business.

6 "Person" means any individual, partnership, association,
7 firm, corporation, limited liability company, trust or estate,
8 or other entity. "Person" includes both natural persons and
9 legal entities.

10 "Secretary" means the Secretary of Financial and
11 Professional Regulation.

12 (Source: P.A. 96-863, eff. 3-1-10; 96-1463, eff. 1-1-11.)

13 (225 ILCS 41/1-15)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 1-15. Funeral directing; definition. Conducting or
16 engaging in or representing or holding out oneself as
17 conducting or engaged in any one or any combination of the
18 following practices constitutes the practice of funeral
19 directing:

20 (a) The practice of preparing, otherwise than by
21 embalming, for the burial, cremation, or disposition
22 ~~disposal~~ and directing and supervising the burial or
23 disposition ~~disposal~~ of deceased human remains or
24 performing any act or service in connection with the
25 preparing of dead human bodies. Preparation, direction,

1 and supervision shall not be construed to mean those
2 functions normally performed by cemetery and crematory
3 personnel.

4 (b) The practice of operating a place for preparing for
5 the disposition of deceased human bodies or for caring for
6 deceased human bodies before their disposition. Nothing in
7 this Code shall prohibit the ownership and management of
8 such a place by an unlicensed owner if the place is
9 operated in accordance with this Code and the unlicensed
10 owner does not engage in any form of funeral directing.

11 (c) The removal of a deceased human body from its place
12 of death, institution, or other location. A licensed
13 funeral director and embalmer intern may remove a deceased
14 human body from its place of death, institution, or other
15 location without another licensee being present. The
16 licensed funeral director may engage others who are not
17 licensed funeral directors, licensed funeral director and
18 embalmers, or licensed funeral director and embalmer
19 interns to assist in the removal if the funeral director
20 provides general supervision. General supervision involves
21 the licensee directing and instructing the unlicensed
22 person ~~directs and instructs them~~ in handling and
23 precautionary procedures ~~and accompanies them on all~~
24 ~~calls~~. The transportation of deceased human remains to a
25 cemetery, crematory or other place of final disposition
26 shall be under the immediate direct supervision of a

1 licensee unless otherwise permitted by this Section.
2 Immediate, direct supervision involves the licensee being
3 physically present during the transportation of the
4 deceased human remains. The transportation of deceased
5 human remains that are embalmed or otherwise prepared and
6 enclosed in an appropriate container to some other place
7 that is not the place of final disposition, such as another
8 funeral home or common carrier, or to a facility that
9 shares common ownership with the transporting funeral home
10 may be performed under the general supervision of a
11 licensee, but the supervision need not be immediate or
12 direct. The transportation of deceased human remains that
13 have been donated pursuant to the Illinois Anatomical Gift
14 Act to any authorized donee under that Act shall be
15 performed under the immediate direct supervision of a
16 licensee. Nothing in this Section shall apply to organs or
17 tissue donated pursuant to the Illinois Anatomical Gift
18 Act.

19 (d) The administering and conducting of, or assuming
20 responsibility for administering and conducting of, at
21 need funeral arrangements.

22 (e) The assuming custody of, transportation, providing
23 shelter, protection and care and disposition of deceased
24 human remains and the furnishing of necessary funeral
25 services, facilities and equipment.

26 (f) Using in connection with a name or practice the

1 word "funeral director", "undertaker", "mortician",
2 "funeral home", "funeral parlor", "funeral chapel", or any
3 other title implying that the person is engaged in the
4 practice of funeral directing.

5 Within the existing scope of the practice of funeral
6 directing or funeral directing and embalming, only a licensed
7 funeral director, a licensed funeral director and embalmer, or
8 a licensed funeral director and embalmer intern under the
9 restrictions provided for in this Code, and not any other
10 person employed or contracted by the licensee, may engage in
11 the following activities at-need: (1) have direct contact with
12 consumers and explain funeral or burial merchandise or services
13 or (2) negotiate, develop, or finalize contracts with
14 consumers. This paragraph shall not be construed or enforced in
15 such a manner as to limit the functions of persons regulated
16 under the Illinois Funeral or Burial Funds Act, the Illinois
17 Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the
18 Cemetery Care Act, the Cemetery Association Act, the Illinois
19 Insurance Code, or any other related professional regulatory
20 Act.

21 The practice of funeral directing shall not include the
22 phoning in of obituary notices, ordering of flowers for the
23 funeral, or reporting of prices on the firm's general price
24 list as required by the Federal Trade Commission Funeral Rule
25 by nonlicensed persons, or like clerical tasks incidental to
26 the act of making funeral arrangements.

1 The making of funeral arrangements, at need, shall be done
2 only by licensed funeral directors or licensed funeral
3 directors and embalmers. Licensed funeral director and
4 embalmer interns may, however, assist or participate in the
5 arrangements under the direct supervision of a licensed funeral
6 director or licensed funeral director and embalmer.

7 (Source: P.A. 96-1463, eff. 1-1-11.)

8 (225 ILCS 41/1-20)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 1-20. Funeral directing and embalming; definition.

11 "The practice of funeral directing and embalming" means:

12 (a) The practice of preparing, otherwise than by
13 embalming, for the burial, cremation, or disposition
14 ~~disposal~~ and directing and supervising the burial or
15 disposition ~~disposal~~ of deceased human remains or
16 performing any act or service in connection with the
17 preparing of dead human bodies. Preparation may include the
18 removal of medical devices. Preparation, direction, and
19 supervision shall not be construed to mean those functions
20 normally performed by cemetery and crematory personnel.

21 (b) The practice of operating a place for preparing for
22 the disposition of deceased human bodies or for caring for
23 deceased human bodies before their disposition. Nothing in
24 this Code shall prohibit the ownership and management of
25 such a place by an unlicensed owner if the place is

1 operated in accordance with this Code and the unlicensed
2 owner does not engage in any form of funeral directing and
3 embalming.

4 (c) The removal of a deceased human body from its place
5 of death, institution or other location. A licensed funeral
6 director and embalmer intern may remove a deceased human
7 body from its place of death, institution, or other
8 location without another licensee being present. The
9 licensed funeral director and embalmer may engage others
10 who are not licensed funeral directors and embalmers,
11 licensed funeral directors, or licensed funeral director
12 and embalmer interns to assist in the removal if the
13 funeral director and embalmer provides general
14 supervision. General supervision involves the licensee
15 directing and instructing the unlicensed person ~~directs~~
16 ~~and instructs them~~ in handling and precautionary
17 procedures ~~and accompanies them on all calls~~. The
18 transportation of deceased human remains to a cemetery,
19 crematory or other place of final disposition shall be
20 under the immediate, direct supervision of a licensee
21 unless otherwise permitted by this Section. Immediate,
22 direct supervision involves the licensee being physically
23 present during the transportation of the deceased human
24 remains. The transportation of deceased human remains that
25 are embalmed or otherwise prepared and enclosed in an
26 appropriate container to some other place that is not the

1 place of final disposition, such as another funeral home or
2 common carrier, or to a facility that shares common
3 ownership with the transporting funeral home may be
4 performed under the general supervision of a licensee, but
5 the supervision need not be immediate or direct. The
6 transportation of deceased human remains that have been
7 donated pursuant to the Illinois Anatomical Gift Act to any
8 authorized donee under that Act shall be performed under
9 the immediate direct supervision of a licensee. Nothing in
10 this Section shall apply to organs or tissue donated
11 pursuant to the Illinois Anatomical Gift Act.

12 (d) The administering and conducting of, or assuming
13 responsibility for administering and conducting of, at
14 need funeral arrangements.

15 (e) The assuming custody of, transportation, providing
16 shelter, protection and care and disposition of deceased
17 human remains and the furnishing of necessary funeral
18 services, facilities and equipment.

19 (f) Using in connection with a name or practice the
20 word "funeral director and embalmer", "embalmer", "funeral
21 director", "undertaker", "mortician", "funeral home",
22 "funeral parlor", "funeral chapel", or any other title
23 implying that the person is engaged in the practice of
24 funeral directing and embalming.

25 (g) The practice of embalming or alkaline hydrolysis or
26 representing or holding out oneself as engaged in the

1 practice of embalming or alkaline hydrolysis of deceased
2 human bodies or the transportation of human bodies deceased
3 of a contagious or infectious disease. Any licensee
4 practicing alkaline hydrolysis must comply with all local,
5 State, and federal laws regarding the procedure.

6 Within the existing scope of the practice of funeral
7 directing or funeral directing and embalming, only a licensed
8 funeral director, a licensed funeral director and embalmer, or
9 a licensed funeral director and embalmer intern under the
10 restrictions provided for in this Code, and not any other
11 person employed or contracted by the licensee, may engage in
12 the following activities at-need: (1) have direct contact with
13 consumers and explain funeral or burial merchandise or services
14 or (2) negotiate, develop, or finalize contracts with
15 consumers. This paragraph shall not be construed or enforced in
16 such a manner as to limit the functions of persons regulated
17 under the Illinois Funeral or Burial Funds Act, the Illinois
18 Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the
19 Cemetery Care Act, the Cemetery Association Act, the Illinois
20 Insurance Code, or any other related professional regulatory
21 Act.

22 The practice of funeral directing and embalming shall not
23 include the phoning in of obituary notices, ordering of flowers
24 for the funeral, or reporting of prices on the firm's general
25 price list as required by the Federal Trade Commission Funeral
26 Rule by nonlicensed persons, or like clerical tasks incidental

1 to the act of making funeral arrangements.

2 The making of funeral arrangements, at need, shall be done
3 only by licensed funeral directors or licensed funeral
4 directors and embalmers. Licensed funeral director and
5 embalmer interns may, however, assist or participate in the
6 arrangements under the direct supervision of a licensed funeral
7 director or licensed funeral director and embalmer.

8 (Source: P.A. 96-1463, eff. 1-1-11.)

9 (225 ILCS 41/1-30)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 1-30. Powers of the Department. Subject to the
12 provisions of this Code, the Department may exercise the
13 following powers:

14 (1) To authorize examinations to ascertain the
15 qualifications and fitness of applicants for licensing as a
16 licensed funeral director and embalmer and pass upon the
17 qualifications of applicants for licensure.

18 (2) To examine the records of a licensed funeral director
19 or licensed funeral director and embalmer from any year or any
20 other aspect of funeral directing and embalming as the
21 Department deems appropriate.

22 (3) To investigate any and all funeral directing and
23 embalming activity.

24 (4) To conduct hearings on proceedings to refuse to issue
25 or renew licenses or to revoke, suspend, place on probation,

1 reprimand, or otherwise discipline a license under this Code or
2 take other non-disciplinary action.

3 (5) To adopt all necessary and reasonable rules and
4 regulations for the effective ~~required for the~~ administration
5 of this Code.

6 (6) To prescribe forms to be issued for the administration
7 and enforcement of this Code.

8 (7) To maintain rosters of the names and addresses of all
9 licensees and all persons whose licenses have been suspended,
10 revoked, denied renewal, or otherwise disciplined within the
11 previous calendar year. These rosters shall be available upon
12 written request and payment of the required fee as established
13 by rule.

14 (8) To contract with third parties for services necessary
15 for the proper administration of this Code including, without
16 limitation, investigators with the proper knowledge, training,
17 and skills to properly inspect funeral homes and investigate
18 complaints under this Code.

19 (Source: P.A. 96-1463, eff. 1-1-11.)

20 (225 ILCS 41/5-5)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 5-5. License requirement. It is unlawful for any
23 person to practice, or to attempt to practice, funeral
24 directing without a license as a funeral director issued by the
25 Department.

1 ~~No person shall practice funeral directing who does not~~
2 ~~have a fixed place of practice or establishment devoted to the~~
3 ~~care and preparation for burial or for transportation of~~
4 ~~deceased human bodies, or who is not regularly employed in a~~
5 ~~fixed place of practice or establishment.~~

6 No person shall practice funeral directing independently
7 at the fixed place of practice or establishment of another
8 licensee unless that person's name is published and displayed
9 at all times in connection therewith.

10 (Source: P.A. 87-966.)

11 (225 ILCS 41/5-10)

12 (Section scheduled to be repealed on January 1, 2013)

13 Sec. 5-10. Funeral director license; display. Every holder
14 of a license as a funeral director shall display it in a
15 conspicuous place in the licensee's place of practice or in the
16 place of practice in which the licensee is employed or
17 contracted. ~~If, in case~~ the licensee is engaged in funeral
18 directing at more than one place of practice, then in the
19 licensee's principal place of practice or the principal place
20 of practice of the licensee's employer and a copy of the
21 license shall be displayed in a conspicuous place at all other
22 places of practice.

23 (Source: P.A. 96-1463, eff. 1-1-11.)

24 (225 ILCS 41/5-15)

1 (Section scheduled to be repealed on January 1, 2013)

2 Sec. 5-15. Renewal; reinstatement; restoration ~~Expiration~~
3 ~~and renewal; inactive status; continuing education~~. The
4 expiration date and renewal period for each license issued
5 under this Article shall be set by rule. The holder of a
6 license as a licensed funeral director may renew the license
7 during the month preceding the expiration date of the license
8 by paying the required fee. A licensed funeral director whose
9 license has expired may have the license reinstated within 5
10 years from the date of expiration upon payment of the required
11 reinstatement fee. The reinstatement shall be effective as of
12 the date of reissuance of the license.

13 Any licensed funeral director whose license has been
14 expired for more than 5 years may have the license restored
15 only by fulfilling the requirements of the Department's rules
16 and by paying the required restoration fee. However, any
17 licensed funeral director whose license has expired while he or
18 she has been engaged (1) in federal service on active duty with
19 the United States Army, Navy, Marine Corps, Air Force, or Coast
20 Guard, or the State Militia called into the service or training
21 of the United States of America or (2) in training or education
22 under the supervision of the United States preliminary to
23 induction into the military service may have his or her license
24 restored without paying any lapsed renewal fees or restoration
25 fee or without passing any examination if, within 2 years after
26 termination of the service, training or education other than by

1 dishonorable discharge, he or she furnishes the Department with
2 an affidavit to the effect that he or she has been so engaged
3 and that his or her service, training or education has been so
4 terminated.

5 In addition to any other requirement for renewal of a
6 license or reinstatement or restoration of an expired license,
7 as a condition for the renewal, reinstatement, or restoration
8 of a license as a licensed funeral director, each licensee
9 shall provide evidence to the Department of completion of at
10 least 12 hours of continuing education during the 24 months
11 preceding the expiration date of the license, or in the case of
12 reinstatement or restoration, during the 24 months preceding
13 application for reinstatement or restoration. The continuing
14 education sponsors shall be approved by the Board. In addition,
15 any qualified continuing education course for funeral
16 directors offered by a college, university, the Illinois
17 Funeral Directors Association, Funeral Directors Services
18 Association of Greater Chicago, Cook County Association of
19 Funeral Home Owners, Inc., Illinois Selected Morticians
20 Association, Inc., Illinois Cemetery and Funeral Home
21 Association, National Funeral Directors Association, Selected
22 Independent Funeral Homes, National Funeral Directors and
23 Morticians Association, Inc., International Order of the
24 Golden Rule, or an Illinois school of mortuary science shall be
25 accepted toward satisfaction of the continuing education
26 requirements.

1 The Department shall establish by rule a means for
2 verification of completion of the continuing education
3 required by this Section. This verification may be accomplished
4 through audits of records maintained by licensees, by requiring
5 the filing of continued education certificates with the
6 Department or a qualified organization selected by the
7 Department to maintain these records, or by other means
8 established by the Department.

9 Except as otherwise provided in this paragraph, a person
10 who is licensed as a funeral director under this Code and who
11 has engaged in the practice of funeral directing for at least
12 40 years shall be exempt from the continuing education
13 requirements of this Section. Licensees who have not engaged in
14 the practice of funeral directing for at least 40 years by
15 January 1, 2016 shall not receive this exemption after that
16 date. In addition, the Department shall establish by rule an
17 exemption or exception, for a limited period of time, for
18 funeral directors who, by reason of advanced age, health or
19 other extreme condition should reasonably be excused from the
20 continuing education requirement upon the approval of the
21 Secretary. Those persons, identified above, who cannot attend
22 on-site classes, shall have the opportunity to comply by
23 completing home study courses designed for them by sponsors.

24 ~~Any funeral director who notifies the Department in writing~~
25 ~~on forms prescribed by the Department may elect to place his or~~
26 ~~her license on an inactive status and shall, subject to rules~~

1 ~~of the Department, be excused from payment of renewal fees and~~
2 ~~completion of continuing education requirements until he or she~~
3 ~~notifies the Department in writing of an intent to restore or~~
4 ~~reinstate the license to active status. Any licensee requesting~~
5 ~~restoration or reinstatement from inactive status shall notify~~
6 ~~the Department as provided by rule of the Department and pay~~
7 ~~the fee required by the Department for restoration or~~
8 ~~reinstatement of the license. Any licensee whose license is on~~
9 ~~inactive status shall not practice in the State of Illinois.~~

10 ~~Practice on a license that has lapsed or been placed in~~
11 ~~inactive status is practicing without a license and a violation~~
12 ~~of this Code.~~

13 (Source: P.A. 96-1463, eff. 1-1-11.)

14 (225 ILCS 41/5-18 new)

15 Sec. 5-18. Inactive status.

16 (a) Any funeral director who notifies the Department in
17 writing on forms prescribed by the Department may elect to
18 place his or her license on an inactive status and shall,
19 subject to rules of the Department, be excused from payment of
20 renewal fees and completion of continuing education
21 requirements until he or she notifies the Department in writing
22 of an intent to restore or reinstate the license to active
23 status.

24 (b) Any licensee who has permitted his or her license to
25 expire or who has had his or her license on inactive status may

1 have the license restored by making application to the
2 Department, by filing proof acceptable to the Department of his
3 or her fitness to have the license restored, and by paying the
4 required fees. Proof of fitness may include sworn evidence
5 certifying to active lawful practice in another jurisdiction.
6 If the licensee has not maintained an active practice in
7 another jurisdiction satisfactory to the Department, then the
8 Department shall determine by an evaluation program,
9 established by rule, his or her fitness for restoration of the
10 license and shall establish procedures and requirements for
11 restoration. Any licensee whose license is on inactive status
12 shall not practice in the State.

13 (c) Any licensee whose license is on inactive status or in
14 a non-renewed status shall not engage in the practice of
15 funeral directing in the State or use the title or advertise
16 that he or she performs the services of a licensed funeral
17 director. Any person violating this Section shall be considered
18 to be practicing without a license and shall be subject to the
19 disciplinary provisions of this Code.

20 (225 ILCS 41/5-20)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 5-20. Disposition of unclaimed cremated remains
23 ~~residual ashes~~. The holder of a license is authorized at his or
24 her discretion to effect a final disposition of the unclaimed
25 cremated remains ~~residual ashes~~ of any cremated human body if

1 no person lawfully entitled to the custody of the ashes makes
2 or has made a proper request for them within one year of the
3 date of death of the person whose body was cremated.

4 (Source: P.A. 87-966.)

5 (225 ILCS 41/10-5)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 10-5. License requirement. It is unlawful for any
8 person to practice or attempt to practice funeral directing and
9 embalming without being licensed by the Department.

10 ~~No person shall practice funeral directing and embalming~~
11 ~~who does not have a fixed place of practice or establishment in~~
12 ~~Illinois devoted to the care and preparation for burial or for~~
13 ~~transportation of deceased human bodies, or who is not~~
14 ~~regularly employed in a fixed place of practice or~~
15 ~~establishment.~~

16 No person shall practice funeral directing and embalming
17 independently at the fixed place of practice or establishment
18 of another licensee unless his or her name shall be published
19 and displayed at all times in connection therewith.

20 No licensed intern shall independently practice funeral
21 directing and embalming; however, a licensed funeral director
22 and embalmer intern may under the immediate personal
23 supervision of a licensed funeral director and embalmer assist
24 a licensed funeral director and embalmer in the practice of
25 funeral directing and embalming.

1 No person shall practice as a funeral director and embalmer
2 intern unless he or she possesses a valid license in good
3 standing to do so in the State of Illinois.

4 (Source: P.A. 93-268, eff. 1-1-04.)

5 (225 ILCS 41/10-20)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 10-20. Application. Every person who desires to obtain
8 a license under this Code shall apply to the Department in
9 writing on forms prepared and furnished by the Department. The
10 application shall contain proof of the particular
11 qualifications required of the applicant, shall be certified by
12 the applicant, and shall be accompanied by the required fee.
13 Applicants have 3 years after the date of application to
14 complete the application process. If the process has not been
15 completed in 3 years, then the application shall be denied, the
16 fee shall be forfeited, and the applicant must reapply and meet
17 the requirements in effect at the time of reapplication.

18 (Source: P.A. 87-966.)

19 (225 ILCS 41/10-30)

20 (Section scheduled to be repealed on January 1, 2013)

21 Sec. 10-30. Issuance, display of license. Whenever an
22 applicant has met the requirements of this Code, the Department
23 shall issue to the applicant a license as a licensed funeral
24 director and embalmer or licensed funeral director and embalmer

1 intern, as the case may be.

2 Every holder of a license shall display it in a conspicuous
3 place in the licensee's place of practice or in the place of
4 practice in which the licensee is employed or contracted. ~~If In~~
5 ~~case~~ the licensee is engaged in funeral directing and embalming
6 at more than one place of practice, then the license shall be
7 displayed in the licensee's principal place of practice or the
8 principal place of practice of the licensee's employer and a
9 copy of the license shall be displayed in a conspicuous place
10 at all other places of practice.

11 (Source: P.A. 96-1463, eff. 1-1-11.)

12 (225 ILCS 41/10-35)

13 (Section scheduled to be repealed on January 1, 2013)

14 Sec. 10-35. Renewal; reinstatement; restoration; ~~restoration;~~
15 ~~continuing education~~. The expiration date and renewal period
16 for each license issued under this Article shall be set by
17 rule. The holder of a license as a licensed funeral director
18 and embalmer or funeral director and embalmer intern may renew
19 the license during the month preceding the expiration date of
20 the license by paying the required fee. A licensed funeral
21 director and embalmer or licensed funeral director and embalmer
22 trainee whose license has expired may have the license
23 reinstated within 5 years from the date of expiration upon
24 payment of the required reinstatement fee and fulfilling the
25 requirements of the Department's rules. The reinstatement of

1 the license is effective as of the date of the reissuance of
2 the license.

3 Any licensed funeral director and embalmer whose license
4 has been expired for more than 5 years may have the license
5 restored only by fulfilling the requirements set forth in the
6 Department's rules and by paying the required restoration fee.
7 However, any licensed funeral director and embalmer or licensed
8 funeral director and embalmer intern whose license has expired
9 while he or she has been engaged (1) in federal service on
10 active duty with the United States Army, Navy, Marine Corps,
11 Air Force, or Coast Guard, or the State Militia called into the
12 service or training of the United States of America or (2) in
13 training or education under the supervision of the United
14 States preliminary to induction into the military service, may
15 have his or her license restored without paying any lapsed
16 renewal fees or restoration fee or without passing any
17 examination if, within 2 years after termination of the
18 service, training or education other than by dishonorable
19 discharge, he or she furnishes the Department with an affidavit
20 to the effect that he or she has been so engaged and that his or
21 her service, training or education has been so terminated.

22 No license of a funeral director and embalmer intern shall
23 be renewed more than twice.

24 In addition to any other requirement for renewal of a
25 license or reinstatement or restoration of an expired license,
26 as a condition for the renewal, reinstatement, or restoration

1 of a license as a licensed funeral director and embalmer, each
2 licensee shall provide evidence to the Department of completion
3 of at least 24 hours of continuing education during the 24
4 months preceding the expiration date of the license, or in the
5 case of reinstatement or restoration, within the 24 months
6 preceding the application for reinstatement or restoration.
7 The continuing education sponsors shall be approved by the
8 Board. In addition, any qualified continuing education course
9 for funeral directors and embalmers offered by a college,
10 university, the Illinois Funeral Directors Association,
11 Funeral Directors Services Association of Greater Chicago,
12 Cook County Association of Funeral Home Owners, Inc., Illinois
13 Selected Morticians Associations, Inc., Illinois Cemetery and
14 Funeral Home Association, National Funeral Directors
15 Association, Selected Independent Funeral Homes, National
16 Funeral Directors and Morticians Association, Inc.,
17 International Order of the Golden Rule, or an Illinois school
18 of mortuary science shall be accepted toward satisfaction of
19 the continuing education requirements.

20 The Department shall establish by rule a means for
21 verification of completion of the continuing education
22 required by this Section. This verification may be accomplished
23 through audits of records maintained by licensees, by requiring
24 the filing of continued education certificates with the
25 Department or a qualified organization selected by the
26 Department to maintain the records, or by other means

1 established by the Department.

2 Except as otherwise provided in this paragraph, a A person
3 who is licensed as a funeral director and embalmer under this
4 Code and who has engaged in the practice of funeral directing
5 and embalming for at least 40 years shall be exempt from the
6 continuing education requirements of this Section. Licenseses
7 who have not engaged in the practice of funeral directing and
8 embalming for at least 40 years by January 1, 2016 shall not
9 receive this exemption after that date. In addition, the
10 Department shall establish by rule an exemption or exception,
11 for a limited period of time, for funeral directors and
12 embalmers who, by reason of advanced age, health or other
13 extreme condition, should reasonably be excused from the
14 continuing education requirement upon the approval of the
15 Secretary. Those persons, identified above, who cannot attend
16 on-site classes, shall have the opportunity to comply by
17 completing home study courses designed for them by sponsors.

18 ~~Any funeral director and embalmer who notifies the~~
19 ~~Department in writing on forms prescribed by the Department,~~
20 ~~may elect to place his or her license on an inactive status and~~
21 ~~shall, subject to rules of the Department, be excused from~~
22 ~~payment of renewal fees and completion of continuing education~~
23 ~~requirements until he or she notifies the Department in writing~~
24 ~~of an intent to restore or reinstate the license to active~~
25 ~~status. While on inactive status, the licensee shall only be~~
26 ~~required to pay a single fee, established by the Department, to~~

1 ~~have the license placed on inactive status. Any licensee~~
2 ~~requesting restoration or reinstatement from inactive status~~
3 ~~shall notify the Department as provided by rule of the~~
4 ~~Department and pay the fee required by the Department for~~
5 ~~restoration or reinstatement of the license. Any licensee whose~~
6 ~~license is on inactive status shall not practice in the State~~
7 ~~of Illinois.~~

8 ~~Practice on a license that has lapsed or been placed in~~
9 ~~inactive status is practicing without a license and a violation~~
10 ~~of this Code.~~

11 (Source: P.A. 96-1463, eff. 1-1-11.)

12 (225 ILCS 41/10-38 new)

13 Sec. 10-38. Inactive status.

14 (a) Any funeral director and embalmer who notifies the
15 Department in writing on forms prescribed by the Department,
16 may elect to place his or her license on an inactive status and
17 shall, subject to rules of the Department, be excused from
18 payment of renewal fees and completion of continuing education
19 requirements until he or she notifies the Department in writing
20 of an intent to restore or reinstate the license to active
21 status.

22 (b) While on inactive status, the licensee shall only be
23 required to pay a single fee, established by the Department, to
24 have the license placed on inactive status. Any licensee who
25 has permitted his or her license to expire or who has had his

1 or her license on inactive status may have the license restored
2 by making application to the Department, by filing proof
3 acceptable to the Department of his or her fitness to have the
4 license restored, and by paying the required fees. Proof of
5 fitness may include sworn evidence certifying to active lawful
6 practice in another jurisdiction. If the licensee has not
7 maintained an active practice in another jurisdiction
8 satisfactory to the Department, then the Department shall
9 determine by an evaluation program, established by rule, his or
10 her fitness for restoration of the license and shall establish
11 procedures and requirements for restoration.

12 (c) Any licensee whose license is on inactive status or in
13 a non-renewed status shall not engage in the practice of
14 funeral directing and embalming in the State or use the title
15 or advertise that he or she performs the services of a licensed
16 funeral director and embalmer. Any person violating this
17 Section shall be considered to be practicing without a license
18 and shall be subject to the disciplinary provisions of this
19 Code.

20 (225 ILCS 41/10-43 new)

21 Sec. 10-43. Endorsement. The Department may issue a
22 funeral director and embalmer license, without the required
23 examination, to an applicant licensed by another state,
24 territory, possession of the United States, or the District of
25 Columbia, if (i) the licensing requirements of that licensing

1 authority are, on the date of licensure, substantially equal to
2 the requirements set forth under this Code and (ii) the
3 applicant provides the Department with evidence of good
4 standing from the licensing authority of that jurisdiction. An
5 applicant under this Section shall pay all of the required
6 fees.

7 (225 ILCS 41/15-5) (from Ch. 111, par. 2825)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 15-5. Funeral Directors and Embalmers Licensing and
10 Disciplinary Board. A Funeral Directors and Embalmers
11 Licensing and Disciplinary Board is created and shall consist
12 of 7 persons, 6 of whom are licensed to practice funeral
13 directing and embalming in this State, and one who is a
14 knowledgeable public member. Each member shall be appointed by
15 the Secretary ~~of the Department~~. The persons so appointed shall
16 hold their offices for 4 years and until qualified successors
17 are appointed. All vacancies occurring shall be filled by the
18 Secretary for the unexpired portion of the term rendered
19 vacant. No member shall be eligible to serve for more than 2
20 full consecutive terms. The Secretary may remove or suspend any
21 member of the Board for cause at any time before the expiration
22 of his or her term. The Secretary shall be the sole arbiter of
23 cause ~~reasons prescribed by law for removal of State officials~~
24 ~~or for misconduct, incompetence, neglect of duty, or failing to~~
25 ~~attend 2 consecutive Board meetings. The cause for removal must~~

1 ~~be set forth in writing.~~ The Board shall annually select a
2 chairman from its membership. The members of the Board shall be
3 reimbursed for all legitimate and necessary expenses incurred
4 in attending meetings of the Board. The Board may meet as often
5 as necessary to perform its duties under this Code, and shall
6 meet at least once a year in Springfield, Illinois.

7 Four members of the Board shall constitute a quorum. A
8 quorum is required for all Board decisions.

9 The Department shall consider the recommendation of the
10 Board in the development of proposed rules under this Code.
11 Notice of any proposed rulemaking under this Code shall be
12 transmitted to the Board and the Department shall review the
13 response of the Board and any recommendations relating to that
14 rulemaking.

15 The Department shall seek the advice and recommendations of
16 the Board in connection with any rulemaking or disciplinary
17 actions relating to funeral director and embalmers and funeral
18 director and embalmer interns, including applications for
19 restoration of revoked licenses. Members of the Board shall be
20 immune from suit in any action based upon any disciplinary
21 proceedings or other activities performed in good faith as
22 members of the Board. ~~The Board shall have 60 days to respond~~
23 ~~to a Department request for advice and recommendations.~~

24 ~~The Department shall adopt all necessary and reasonable~~
25 ~~rules and regulations for the effective administration of this~~
26 ~~Code, and without limiting the foregoing, the Department shall~~

1 ~~adopt rules and regulations:~~

2 ~~(1) prescribing a method of examination of candidates;~~

3 ~~(2) defining what shall constitute a school, college,~~
4 ~~university, department of a university or other~~
5 ~~institution to determine the reputability and good~~
6 ~~standing of these institutions by reference to a compliance~~
7 ~~with the rules and regulations; however, no school,~~
8 ~~college, university, department of a university or other~~
9 ~~institution that refuses admittance to applicants, solely~~
10 ~~on account of race, color, creed, sex or national origin~~
11 ~~shall be considered reputable and in good standing;~~

12 ~~(3) establishing expiration dates and renewal periods~~
13 ~~for all licenses;~~

14 ~~(4) prescribing a method of handling complaints and~~
15 ~~conducting hearings on proceedings to take disciplinary~~
16 ~~action under this Code; and~~

17 ~~(5) providing for licensure by reciprocity.~~

18 (Source: P.A. 96-1463, eff. 1-1-11.)

19 (225 ILCS 41/15-15)

20 (Section scheduled to be repealed on January 1, 2013)

21 Sec. 15-15. Complaints; investigations; hearings; ~~summary~~
22 ~~suspension of license~~. The Department may investigate the
23 actions of any applicant or of any person or persons rendering
24 or offering to render services or any person holding or
25 claiming to hold a license under this Code.

1 The Department shall, before refusing to issue or renew a
2 license or seeking to discipline a licensee under Section 75
3 ~~revoking, suspending, placing on probation, reprimanding, or~~
4 ~~taking any other disciplinary action,~~ at least 30 days before
5 the date set for the hearing, (i) notify the accused in writing
6 of the charges made and the time and place for the hearing on
7 the charges, (ii) direct him or her to file a written answer to
8 the charges under oath within 20 days after ~~the service on him~~
9 ~~or her of the notice,~~ and (iii) inform the applicant or
10 licensee accused that, failure if he or she fails to answer,
11 shall result in a default being entered ~~will be taken~~ against
12 the applicant or licensee ~~him or her or that his or her license~~
13 ~~may be suspended, revoked, or placed on probationary status, or~~
14 ~~other disciplinary action taken with regard to the license,~~
15 ~~including limiting the scope, nature, or extent of his or her~~
16 ~~practice, as the Department may consider proper.~~

17 At the time and place fixed in the notice, the Board or the
18 hearing officer appointed by the Secretary ~~Department~~ shall
19 proceed to hear the charges and the parties or their counsel
20 shall be accorded ample opportunity to present any pertinent
21 statements, testimony, evidence, and arguments. The Board or
22 hearing officer ~~Department~~ may continue the hearing from time
23 to time. In case the person, after receiving the notice, fails
24 to file an answer, his or her license may, in the discretion of
25 the Secretary, having first received the recommendation of the
26 Board ~~Department,~~ be suspended, revoked, or placed on

1 probationary status, or be subject to ~~the Department may take~~
2 whatever disciplinary action the Secretary ~~it~~ considers
3 proper, including limiting the scope, nature, or extent of the
4 person's practice or the imposition of a fine, without a
5 hearing, if the act or acts charged constitute sufficient
6 grounds for that action under this Code. The written notice and
7 any notice in the subsequent proceeding may be served by
8 regular personal delivery or ~~by~~ certified mail to the
9 licensee's address of record ~~specified by the accused in his or~~
10 ~~her last notification with the Department.~~

11 ~~The Department has the power to subpoena and bring before~~
12 ~~it any person to take oral or written testimony and to compel~~
13 ~~the production of any books, papers, records, or other~~
14 ~~documents that the Secretary or his or her designee deems~~
15 ~~relevant or material to any investigation or hearing conducted~~
16 ~~by the Department, with the same fees and in the same manner as~~
17 ~~prescribed in civil cases. The Secretary, the designated~~
18 ~~hearing officer, and every member of the Board has the power to~~
19 ~~administer oaths to witnesses at any hearing that the~~
20 ~~Department is authorized to conduct, and any other oaths~~
21 ~~authorized in any Act or Code administered by the Department.~~

22 ~~If the Department determines that any licensee is guilty of~~
23 ~~a violation of any of the provisions of this Code, disciplinary~~
24 ~~action shall be taken against the licensee. The Department may~~
25 ~~take disciplinary action without a formal hearing subject to~~
26 ~~Section 10-70 of the Illinois Administrative Procedure Act.~~

1 ~~The Secretary may summarily suspend the license of any~~
2 ~~person licensed under this Code without a hearing,~~
3 ~~simultaneously with the institution of proceedings for a~~
4 ~~hearing provided for in this Section, if the Secretary finds~~
5 ~~that evidence in the possession of the Secretary indicates that~~
6 ~~the continuation of practice by the licensee would constitute~~
7 ~~an imminent danger to the public. In the event that the~~
8 ~~Secretary summarily suspends the license of an individual~~
9 ~~without a hearing, a hearing must be held within 30 days after~~
10 ~~the suspension has occurred and concluded as expeditiously as~~
11 ~~practical.~~

12 (Source: P.A. 96-48, eff. 7-17-09; 96-1463, eff. 1-1-11.)

13 (225 ILCS 41/15-16)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 15-16. Appointment of a hearing officer. The Secretary
16 has the authority to appoint any attorney licensed to practice
17 law in the State of Illinois to serve as the hearing officer in
18 any action for refusal to issue, restore, or renew a license or
19 to discipline a licensee. The hearing officer has full
20 authority to conduct the hearing. ~~Any Board member may attend~~
21 ~~hearings.~~

22 (Source: P.A. 96-1463, eff. 1-1-11.)

23 (225 ILCS 41/15-18 new)

24 Sec. 15-18. Temporary suspension. The Secretary may

1 temporarily suspend the license of a licensee without a
2 hearing, simultaneously with the institution of proceedings
3 for a hearing provided in Section 15-15 of this Code, if the
4 Secretary finds that the public interest, safety, or welfare
5 requires such emergency action. In the event that the Secretary
6 temporarily suspends a license without a hearing before the
7 Board or a duly appointed hearing officer, a hearing shall be
8 held within 30 days after the suspension has occurred. The
9 suspended licensee may seek a continuance of the hearing,
10 during which time the suspension shall remain in effect. The
11 proceeding shall be concluded without appreciable delay. If the
12 Department does not hold a hearing within 30 days after the
13 date of the suspension, then the licensee's license shall be
14 automatically reinstated.

15 (225 ILCS 41/15-19 new)

16 Sec. 15-19. Consent to Administrative Supervision order.
17 In appropriate cases, the Department may resolve a complaint
18 against a licensee through the issuance of a Consent to
19 Administrative Supervision order. A licensee subject to a
20 Consent to Administrative Supervision order shall be
21 considered by the Department as an active licensee in good
22 standing. This order shall not be reported or considered by the
23 Department to be a discipline of the licensee. The records
24 regarding an investigation and a Consent to Administrative
25 Supervision order shall be considered confidential and shall

1 not be released by the Department except as mandated by law. A
2 complainant shall be notified if his or her complaint has been
3 resolved by a Consent to Administrative Supervision order.

4 (225 ILCS 41/15-20)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 15-20. Transcript; record of proceedings. The
7 Department, at its expense, shall preserve a record of all
8 proceedings at the formal hearing of any case. The notice of
9 hearing, complaint and all other documents in the nature of
10 pleadings and written motions filed in the proceedings, the
11 transcript of testimony, the report of the Board or hearing
12 officer, and the orders of the Department shall be the record
13 of the proceedings. ~~The Department shall furnish a transcript~~
14 ~~of the record to any person interested in the hearing upon~~
15 ~~payment of the actual cost of making the transcript.~~

16 (Source: P.A. 96-1463, eff. 1-1-11.)

17 (225 ILCS 41/15-21)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 15-21. Findings and recommendations. At the
20 conclusion of the hearing, the Board or hearing officer shall
21 present to the Secretary a written report of its findings of
22 fact, conclusions of law, and recommendations. The report shall
23 contain a finding of whether or not the accused person violated
24 this Code or its rules or failed to comply with the conditions

1 required in this Code or its rules. The Board shall specify the
2 nature of any violations or failure to comply and shall make
3 its recommendations to the Secretary. In making
4 recommendations for any disciplinary action, the Board may take
5 into consideration all facts and circumstances bearing upon the
6 reasonableness of the conduct of the accused and the potential
7 for future harm to the public, including, but not limited to,
8 previous discipline of the accused by the Department, intent,
9 degree of harm to the public and likelihood of harm in the
10 future, any restitution made by the accused, and whether the
11 incident or incidents contained in the complaint appear to be
12 isolated or represent a continuing pattern of conduct. In
13 making its recommendations for discipline, the Board shall
14 endeavor to ensure that the severity of the discipline
15 recommended is reasonably related to the severity of the
16 violation.

17 The report of findings of fact, conclusions of law, and
18 recommendation of the Board or hearing officer shall be the
19 basis for the Secretary's ~~Department's~~ order refusing to issue,
20 restore, or renew a license, or otherwise disciplining a
21 licensee. If the Secretary disagrees with the recommendations
22 of the Board or hearing officer, the Secretary may issue an
23 order in contravention of the Board or hearing officer's
24 recommendations. The finding is not admissible in evidence
25 against the person in a criminal prosecution brought for a
26 violation of this Code, but the hearing and finding are not a

1 bar to a criminal prosecution brought for a violation of this
2 Code.

3 (Source: P.A. 96-1463, eff. 1-1-11.)

4 (225 ILCS 41/15-22)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 15-22. Rehearing. At the conclusion of the hearing, a
7 copy of the Board or hearing officer's report shall be served
8 upon the applicant or licensee by the Department, either
9 personally or as provided in this Code for the service of a
10 notice of hearing. Within 20 calendar days after service, the
11 applicant or licensee may present to the Department a motion in
12 writing for a rehearing, which shall specify the particular
13 grounds for rehearing. The Department may respond to the motion
14 for rehearing within 20 calendar days after its service on the
15 Department. If no motion for rehearing is filed, then upon the
16 expiration of the time specified for filing such a motion, or
17 if a motion for rehearing is denied, then upon denial, the
18 Secretary may enter an order in accordance with the
19 recommendations of the Board or hearing officer. If the
20 applicant or licensee orders from the reporting service and
21 pays for a transcript of the record within the time for filing
22 a motion for rehearing, the 20-day period within which a motion
23 may be filed shall commence upon the delivery of the transcript
24 to the applicant or licensee.

25 If the Secretary believes that substantial justice has not

1 been done in the revocation, suspension, or refusal to issue,
2 restore, or renew a license, or other discipline of an
3 applicant or licensee, he or she may order a rehearing by the
4 same or other hearing officers ~~examiners~~.

5 (Source: P.A. 96-1463, eff. 1-1-11.)

6 (225 ILCS 41/15-25)

7 (Section scheduled to be repealed on January 1, 2013)

8 Sec. 15-25. Subpoenas; oaths; attendance of witnesses
9 ~~Court order; contempt.~~

10 (a) The Department may subpoena and bring before it any
11 person to take the oral or written testimony or compel the
12 production of any books, papers, records, or any other
13 documents that the Secretary or his or her designee deems
14 relevant or material to any investigation or hearing conducted
15 by the Department with the same fees and mileage and in the
16 same manner as prescribed in civil cases in the courts of this
17 State.

18 (b) The Secretary, the hearing officer, any member of the
19 Board, or a certified shorthand court reporter may administer
20 oaths at any hearing that the Department conducts.
21 Notwithstanding any other statute or Department rule to the
22 contrary, all requests for testimony, production of documents,
23 or records shall be in accordance with this Code.

24 (c) Any circuit court, upon application of the applicant,
25 licensee or the Department, may, ~~by order duly entered, require~~

1 the attendance and testimony of witnesses and the production of
2 relevant documents, files, books, records, and papers in
3 connection with any hearing or investigation. The ~~before the~~
4 Department in any hearing relating to the refusal, suspension
5 or revocation of a license. Upon refusal or neglect to obey the
6 order of the court, the court may compel compliance with its
7 order by proceedings for contempt of court.

8 (Source: P.A. 87-966.)

9 (225 ILCS 41/15-40)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 15-40. Certification of record; receipt. The
12 Department shall not be required to certify any record to the
13 court, to file an answer in court, or otherwise to appear in
14 any court in a judicial review proceeding unless and until the
15 Department has received from the plaintiff payment of the costs
16 of furnishing and certifying the record, which costs shall be
17 determined by the Department. Exhibits shall be certified
18 without cost. Failure on the part of the Plaintiff to file a
19 receipt in court is ~~shall be~~ grounds for dismissal of the
20 action.

21 (Source: P.A. 96-1463, eff. 1-1-11.)

22 (225 ILCS 41/15-41)

23 (Section scheduled to be repealed on January 1, 2013)

24 Sec. 15-41. Order or certified copy; prima facie proof. An

1 order or certified copy thereof, over the seal of the
2 Department and purporting to be signed by the Secretary, is
3 prima facie proof that:

4 (1) the signature is the genuine signature of the
5 Secretary; and

6 (2) the Secretary is duly appointed and qualified. ~~and~~

7 ~~(3) the hearing officer is qualified to act.~~

8 (Source: P.A. 96-1463, eff. 1-1-11.)

9 (225 ILCS 41/15-45)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 15-45. Practice without license; injunction; cease
12 and desist order; civil penalties.

13 (a) The practice of funeral directing and embalming or
14 funeral directing by any person who has not been issued a
15 license by the Department, whose license has been suspended or
16 revoked, or whose license has not been renewed is hereby
17 declared to be inimical to the public welfare and to constitute
18 a public nuisance. The Secretary may, in the name of the People
19 of the State of Illinois through the Attorney General of the
20 State of Illinois, or the State's Attorney of any county in
21 which the violation is alleged to have occurred in the State of
22 Illinois, apply for an injunction in the circuit court to
23 enjoin any person who has not been issued a license or whose
24 license has been suspended or revoked, or whose license has not
25 been renewed, from practicing funeral directing and embalming

1 or funeral directing. Upon the filing of a verified complaint
2 in court, the court, if satisfied by affidavit or otherwise
3 that the person is or has been practicing funeral directing and
4 embalming or funeral directing without having been issued a
5 license or after his or her license has been suspended,
6 revoked, or not renewed, may issue a temporary restraining
7 order or preliminary injunction, without notice or bond,
8 enjoining the defendant from further practicing funeral
9 directing and embalming or funeral directing. A copy of the
10 verified complaint shall be served upon the defendant and the
11 proceedings shall thereafter be conducted as in other civil
12 cases. If it is established that the defendant has been or is
13 practicing funeral directing and embalming or funeral
14 directing without having been issued a license or has been or
15 is practicing funeral directing and embalming or funeral
16 directing after his or her license has been suspended, revoked,
17 or not renewed, the court may enter a judgment perpetually
18 enjoining the defendant from further practicing funeral
19 directing and embalming or funeral directing. In case of
20 violation of any injunction entered under this Section, the
21 court may summarily try and punish the offender for contempt of
22 court. Any injunction proceeding shall be in addition to, and
23 not in lieu of, all penalties and other remedies in this Code.

24 (b) Whenever, in the opinion of the Department, any person
25 or other entity violates any provision of this Code, the
26 Department may issue a notice to show cause why an order to

1 cease and desist should not be entered against that person or
2 other entity. The rule shall clearly set forth the grounds
3 relied upon by the Department and shall provide a period of 7
4 days from the date of the rule to file an answer to the
5 satisfaction of the Department. Failure to answer to the
6 satisfaction of the Department shall cause an order to cease
7 and desist to be issued immediately.

8 (c) (Blank).

9 (Source: P.A. 96-1463, eff. 1-1-11; 97-333, eff. 8-12-11.)

10 (225 ILCS 41/15-46)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 15-46. Civil penalties; civil action.

13 (a) In addition to any other penalty provided by law, any
14 person, sole proprietorship, professional service corporation,
15 limited liability company, partnership, or other entity that
16 violates Section 1-15 or 1-20 of this Code shall forfeit and
17 pay to the General Professions Dedicated Fund a civil penalty
18 in an amount determined by the Department not to exceed \$10,000
19 for each violation. The penalty shall be assessed in
20 proceedings as provided in Sections 15-10 through 15-41 of this
21 Code.

22 (b) In addition to the other penalties and remedies
23 provided in this Code, the Department may bring a civil action
24 in the county in which the funeral establishment is located
25 against a licensee or any other person to enjoin any violation

1 or threatened violation of this Code.

2 (c) Unless the amount of the penalty is paid within 60 days
3 after the order becomes final, the order shall constitute a
4 judgment ~~judgement~~ and shall be filed and execution issued
5 thereon in the same manner as the judgment ~~judgement~~ of a court
6 of record.

7 (Source: P.A. 96-1463, eff. 1-1-11.)

8 (225 ILCS 41/15-50)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 15-50. Practice by corporation, limited liability
11 company, partnership, or association. No corporation, limited
12 liability company, partnership or association of individuals,
13 as such, shall be issued a license as a licensed funeral
14 director and embalmer or licensed funeral director, nor shall
15 any corporation, limited liability company, partnership, firm
16 or association of individuals, or any individual connected
17 therewith, publicly advertise any corporation, partnership, or
18 association of individuals as being licensed funeral directors
19 and embalmers or licensed funeral directors. Nevertheless,
20 nothing in this Act shall restrict funeral director licensees
21 or funeral director and embalmer licensees from forming
22 professional service corporations under the Professional
23 Service Corporation Act or from having these corporations
24 registered for the practice of funeral directing.

25 No funeral director licensee or funeral director and

1 embalmer licensee, and no partnership or association of those
2 licensees, formed since July 1, 1935, shall engage in the
3 practice of funeral directing and embalming or funeral
4 directing under a trade name or partnership or firm name unless
5 in the use and advertising of the trade name, partnership or
6 firm name there is published in connection with the advertising
7 the name of the owner or owners as the owner or owners.

8 (Source: P.A. 96-863, eff. 3-1-10.)

9 (225 ILCS 41/15-65)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 15-65. Fees. The Department shall provide by rule for
12 a schedule of fees for the administration and enforcement of
13 this Code, including but not limited to, original licensure,
14 renewal, and restoration. The fees shall be nonrefundable.

15 All fees, fines, and penalties collected under this Code
16 shall be deposited into the General Professions Dedicated Fund
17 and shall be appropriated to the Department for the ordinary
18 and contingent expenses of the Department in the administration
19 of this Code.

20 (Source: P.A. 96-1463, eff. 1-1-11.)

21 (225 ILCS 41/15-70)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 15-70. Returned checks; fines. Any person who delivers
24 a check or other payment to the Department that is returned to

1 the Department unpaid by the financial institution upon which
2 it is drawn shall pay to the Department, in addition to the
3 amount already owed to the Department, a fine of \$50. The fines
4 imposed by this Section are in addition to any other discipline
5 provided under this Code for unlicensed practice or practice on
6 a nonrenewed license. The Department shall notify the person
7 that payment of fees and fines shall be paid to the Department
8 by certified check or money order within 30 calendar days of
9 the notification. If, after the expiration of 30 days from the
10 date of the notification, the person has failed to submit the
11 necessary remittance, the Department shall automatically
12 terminate the license ~~or certificate~~ or deny the application,
13 without hearing. If, after termination or denial, the person
14 seeks a license ~~or certificate~~, he or she shall apply to the
15 Department for restoration or issuance of the license ~~or~~
16 ~~certificate~~ and pay all fees and fines due to the Department.
17 The Department may establish a fee for the processing of an
18 application for restoration of a license ~~or certificate~~ to pay
19 all expenses of processing this application. The Secretary may
20 waive the fines due under this Section in individual cases
21 where the Secretary finds that the fines would be unreasonable
22 or unnecessarily burdensome.

23 (Source: P.A. 96-1463, eff. 1-1-11.)

24 (225 ILCS 41/15-75)

25 (Section scheduled to be repealed on January 1, 2013)

1 Sec. 15-75. Violations; grounds for discipline; penalties.

2 (a) Each of the following acts is a Class A misdemeanor for
3 the first offense, and a Class 4 felony for each subsequent
4 offense. These penalties shall also apply to unlicensed owners
5 of funeral homes.

6 (1) Practicing the profession of funeral directing and
7 embalming or funeral directing, or attempting to practice
8 the profession of funeral directing and embalming or
9 funeral directing without a license as a funeral director
10 and embalmer or funeral director.

11 (2) Serving or attempting to serve as an intern under a
12 licensed funeral director and embalmer ~~or attempting to~~
13 ~~serve as an intern under a licensed funeral director and~~
14 ~~embalmer~~ without a license as a licensed funeral director
15 and embalmer intern.

16 (3) Obtaining or attempting to obtain a license,
17 practice or business, or any other thing of value, by fraud
18 or misrepresentation.

19 (4) Permitting any person in one's employ, under one's
20 control or in or under one's service to serve as a funeral
21 director and embalmer, funeral director, or funeral
22 director and embalmer intern when the person does not have
23 the appropriate license.

24 (5) Failing to display a license as required by this
25 Code.

26 (6) Giving false information or making a false oath or

1 affidavit required by this Code.

2 (b) The Department may refuse to issue or renew, ~~a license~~
3 ~~or may~~ revoke, suspend, place on probation or administrative
4 supervision, reprimand, or take other disciplinary or
5 non-disciplinary action as the Department may deem
6 appropriate, including imposing fines not to exceed \$10,000 for
7 each violation, with regard to any license under the Code for
8 any one or combination of the following:

9 (1) Fraud or any misrepresentation in applying for or
10 procuring a license under this Code or in connection with
11 applying for renewal of a license under this Code ~~Obtaining~~
12 ~~or attempting to obtain a license by fraud or~~
13 ~~misrepresentation.~~

14 (2) Conviction by plea of guilty or nolo contendere,
15 finding of guilt, jury verdict, or entry of judgment or by
16 sentencing of any crime, including, but not limited to,
17 convictions, preceding sentences of supervision,
18 conditional discharge, or first offender probation, under
19 the laws of any jurisdiction of the United States: (i) that
20 is a felony or (ii) that is a misdemeanor, an essential
21 element of which is dishonesty, or that is directly related
22 to the practice of the profession ~~Conviction in this State~~
23 ~~or another state of any crime that is a felony or~~
24 ~~misdemeanor under the laws of this State or conviction of a~~
25 ~~felony or misdemeanor in a federal court.~~

26 (3) Violation of the laws of this State relating to the

1 funeral, burial or disposition ~~disposal~~ of deceased human
2 bodies or of the rules and regulations of the Department,
3 or the Department of Public Health.

4 (4) Directly or indirectly paying or causing to be paid
5 any sum of money or other valuable consideration for the
6 securing of business or for obtaining authority to dispose
7 of any deceased human body.

8 (5) Professional incompetence, gross negligence,
9 malpractice, or untrustworthiness in the practice of
10 funeral directing and embalming or funeral directing.

11 (6) (Blank). ~~False or misleading advertising as a~~
12 ~~funeral director and embalmer or funeral director, or~~
13 ~~advertising or using the name of a person other than the~~
14 ~~holder of a license in connection with any service being~~
15 ~~rendered in the practice of funeral directing and embalming~~
16 ~~or funeral directing. Nothing in this paragraph shall~~
17 ~~prevent including the name of any owner, officer or~~
18 ~~corporate director of a funeral business who is not a~~
19 ~~licensee in any advertisement used by a funeral home with~~
20 ~~which the individual is affiliated if the advertisement~~
21 ~~specifies the individual's affiliation with the funeral~~
22 ~~home.~~

23 (7) Engaging in, promoting, selling, or issuing burial
24 contracts, burial certificates, or burial insurance
25 policies in connection with the profession as a funeral
26 director and embalmer, funeral director, or funeral

1 director and embalmer intern in violation of any laws of
2 the State of Illinois.

3 (8) Refusing, without cause, to surrender the custody
4 of a deceased human body upon the proper request of the
5 person or persons lawfully entitled to the custody of the
6 body.

7 (9) Taking undue advantage of a client or clients as to
8 amount to the perpetration of fraud.

9 (10) Engaging in funeral directing and embalming or
10 funeral directing without a license.

11 (11) Encouraging, requesting, or suggesting by a
12 licensee or some person working on his behalf and with his
13 consent for compensation that a person utilize the services
14 of a certain funeral director and embalmer, funeral
15 director, or funeral establishment unless that information
16 has been expressly requested by the person. This does not
17 prohibit general advertising or pre-need solicitation.

18 (12) Making or causing to be made any false or
19 misleading statements about the laws concerning the
20 disposition ~~disposal~~ of human remains, including, but not
21 limited to, the need to embalm, the need for a casket for
22 cremation or the need for an outer burial container.

23 (13) (Blank).

24 (14) Embalming or attempting to embalm a deceased human
25 body without express prior authorization of the person
26 responsible for making the funeral arrangements for the

1 body. This does not apply to cases where embalming is
2 directed by local authorities who have jurisdiction or when
3 embalming is required by State or local law. A licensee may
4 embalm without express prior authorization if a good faith
5 effort has been made to contact family members and has been
6 unsuccessful and the licensee has no reason to believe the
7 family opposes embalming.

8 (15) Making a false statement on a Certificate of Death
9 where the person making the statement knew or should have
10 known that the statement was false.

11 (16) Soliciting human bodies after death or while death
12 is imminent.

13 (17) Performing any act or practice that is a violation
14 of this Code, the rules for the administration of this
15 Code, or any federal, State or local laws, rules, or
16 regulations governing the practice of funeral directing or
17 embalming.

18 (18) Performing any act or practice that is a violation
19 of Section 2 of the Consumer Fraud and Deceptive Business
20 Practices Act.

21 (19) Engaging in dishonorable, unethical, or
22 unprofessional conduct of a character likely to deceive,
23 defraud or harm the public.

24 (20) Taking possession of a dead human body without
25 having first obtained express permission from the person
26 holding the right to control the disposition in accordance

1 with Section 5 of the Disposition of Remains Act ~~next of~~
2 ~~kin~~ or a public agency legally authorized to direct,
3 control or permit the removal of deceased human bodies.

4 (21) Advertising in a false or misleading manner or
5 advertising using the name of an unlicensed person in
6 connection with any service being rendered in the practice
7 of funeral directing or funeral directing and embalming.
8 The use of any name of an unlicensed or unregistered person
9 in an advertisement so as to imply that the person will
10 perform services is considered misleading advertising.
11 Nothing in this paragraph shall prevent including the name
12 of any owner, officer or corporate director of a funeral
13 home, who is not a licensee, in any advertisement used by a
14 funeral home with which the individual is affiliated, if
15 the advertisement specifies the individual's affiliation
16 with the funeral home.

17 (22) Charging for professional services not rendered,
18 including filing false statements for the collection of
19 fees for which services are not rendered ~~Directly or~~
20 ~~indirectly receiving compensation for any professional~~
21 ~~services not actually performed.~~

22 (23) Failing to account for or remit any monies,
23 documents, or personal property that belongs to others that
24 comes into a licensee's possession.

25 (24) Treating any person differently to his detriment
26 because of race, color, creed, gender, religion, or

1 national origin.

2 (25) Knowingly making any false statements, oral or
3 otherwise, of a character likely to influence, persuade or
4 induce others in the course of performing professional
5 services or activities.

6 (26) Willfully ~~Knowingly~~ making or filing false
7 records or reports in the practice of funeral directing and
8 embalming, including, but not limited to, false records
9 filed with State agencies or departments.

10 (27) Failing to acquire continuing education required
11 under this Code.

12 (28) (Blank). ~~Violations of this Code or of the rules~~
13 ~~adopted pursuant to this Code.~~

14 (29) Aiding or assisting another person in violating
15 any provision of this Code or rules adopted pursuant to
16 this Code.

17 (30) Failing within 10 days, to provide information in
18 response to a written request made by the Department.

19 (31) Discipline by another state, District of
20 Columbia, territory, ~~or~~ foreign nation, or governmental
21 agency, if at least one of the grounds for the discipline
22 is the same or substantially equivalent to those set forth
23 in this Section.

24 (32) (Blank). ~~Directly or indirectly giving to or~~
25 ~~receiving from any person, firm, corporation, partnership,~~
26 ~~or association any fee, commission, rebate, or other form~~

1 ~~of compensation for professional services not actually or~~
2 ~~personally rendered.~~

3 (33) Mental illness or disability which results in the
4 inability ~~Inability~~ to practice the profession with
5 reasonable judgment, skill, or safety.

6 (34) Gross, willful, or continued overcharging for
7 professional services, including filing false statements
8 for collection of fees for which services are not rendered.

9 (35) Physical illness, including, but not limited to,
10 deterioration through the aging process or loss of motor
11 skill which results in a licensee's inability to practice
12 under this Code with reasonable judgment, skill, or safety
13 ~~A pattern of practice or other behavior that demonstrates~~
14 ~~incapacity or incompetence to practice under this Code.~~

15 (36) Failing to comply with any of the following
16 required activities:

17 (A) When reasonably possible, a funeral director
18 licensee or funeral director and embalmer licensee or
19 anyone acting on his or her behalf shall obtain the
20 express authorization of the person or persons
21 responsible for making the funeral arrangements for a
22 deceased human body prior to removing a body from the
23 place of death or any place it may be or embalming or
24 attempting to embalm a deceased human body, unless
25 required by State or local law. This requirement is
26 waived whenever removal or embalming is directed by

1 local authorities who have jurisdiction. If the
2 responsibility for the handling of the remains
3 lawfully falls under the jurisdiction of a public
4 agency, then the regulations of the public agency shall
5 prevail.

6 (B) A licensee shall clearly mark the price of any
7 casket offered for sale or the price of any service
8 using the casket on or in the casket if the casket is
9 displayed at the funeral establishment. If the casket
10 is displayed at any other location, regardless of
11 whether the licensee is in control of that location,
12 the casket shall be clearly marked and the registrant
13 shall use books, catalogues, brochures, or other
14 printed display aids to show the price of each casket
15 or service.

16 (C) At the time funeral arrangements are made and
17 prior to rendering the funeral services, a licensee
18 shall furnish a written statement of services to be
19 retained by the person or persons making the funeral
20 arrangements, signed by both parties, that shall
21 contain: (i) the name, address and telephone number of
22 the funeral establishment and the date on which the
23 arrangements were made; (ii) the price of the service
24 selected and the services and merchandise included for
25 that price; (iii) a clear disclosure that the person or
26 persons making the arrangement may decline and receive

1 credit for any service or merchandise not desired and
2 not required by law or the funeral director or the
3 funeral director and embalmer; (iv) the supplemental
4 items of service and merchandise requested and the
5 price of each item; (v) the terms or method of payment
6 agreed upon; and (vi) a statement as to any monetary
7 advances made by the registrant on behalf of the
8 family. The licensee shall maintain a copy of the
9 written statement of services in its permanent
10 records. All written statements of services are
11 subject to inspection by the Department.

12 (D) In all instances where the place of final
13 disposition of a deceased human body or the cremated
14 remains of a deceased human body is a cemetery, the
15 licensed funeral director and embalmer, or licensed
16 funeral director, who has been engaged to provide
17 funeral or embalming services shall remain at the
18 cemetery and personally witness the placement of the
19 human remains in their designated grave or the sealing
20 of the above ground depository, crypt, or urn. The
21 licensed funeral director or licensed funeral director
22 and embalmer may designate a licensed funeral director
23 and embalmer intern or representative of the funeral
24 home to be his or her witness to the placement of the
25 remains. If the cemetery authority, cemetery manager,
26 or any other agent of the cemetery takes any action

1 that prevents compliance with this paragraph (D), then
2 the funeral director and embalmer or funeral director
3 shall provide written notice to the Department within 5
4 business days after failing to comply. If the
5 Department receives this notice, then the Department
6 shall not take any disciplinary action against the
7 funeral director and embalmer or funeral director for a
8 violation of this paragraph (D) unless the Department
9 finds that the cemetery authority, manager, or any
10 other agent of the cemetery did not prevent the funeral
11 director and embalmer or funeral director from
12 complying with this paragraph (D) as claimed in the
13 written notice.

14 (E) A funeral director or funeral director and
15 embalmer shall fully complete the portion of the
16 Certificate of Death under the responsibility of the
17 funeral director or funeral director and embalmer and
18 provide all required information. In the event that any
19 reported information subsequently changes or proves
20 incorrect, a funeral director or funeral director and
21 embalmer shall immediately upon learning the correct
22 information correct the Certificate of Death.

23 (37) A finding by the Department that the license,
24 after having his or her license placed on probationary
25 status or subjected to conditions or restrictions,
26 violated the terms of the probation or failed to comply

1 with such terms or conditions.

2 (38) (Blank). ~~Violation of any final administrative~~
3 ~~action of the Secretary.~~

4 (39) Being named as a perpetrator in an indicated
5 report by the Department of Children and Family Services
6 pursuant to the Abused and Neglected Child Reporting Act
7 and, upon proof by clear and convincing evidence, being
8 found to have caused a child to be an abused child or
9 neglected child as defined in the Abused and Neglected
10 Child Reporting Act.

11 (40) Habitual or excessive use or abuse of drugs
12 defined in law as controlled substances, alcohol, or any
13 other substance which results in the inability to practice
14 with reasonable judgment, skill, or safety.

15 (41) Practicing under a false or, except as provided by
16 law, an assumed name.

17 (42) Cheating on or attempting to subvert the licensing
18 examination administered under this Code.

19 (c) The Department may refuse to issue or renew, or may
20 suspend without a hearing, as provided for in the Department of
21 Professional Regulation Law of the Civil Administrative Code of
22 Illinois, the license of any person who fails to file a return,
23 to pay the tax, penalty or interest shown in a filed return, or
24 to pay any final assessment of tax, penalty or interest as
25 required by any tax Act administered by the Illinois Department
26 of Revenue, until the time as the requirements of the tax Act

1 are satisfied in accordance with subsection (g) of Section
2 2105-15 of the Department of Professional Regulation Law of the
3 Civil Administrative Code of Illinois.

4 (d) No action may be taken under this Code against a person
5 licensed under this Code unless the action is commenced within
6 5 years after the occurrence of the alleged violations. A
7 continuing violation shall be deemed to have occurred on the
8 date when the circumstances last existed that give rise to the
9 alleged violation.

10 (e) Nothing in this Section shall be construed or enforced
11 to give a funeral director and embalmer, or his or her
12 designees, authority over the operation of a cemetery or over
13 cemetery employees. Nothing in this Section shall be construed
14 or enforced to impose duties or penalties on cemeteries with
15 respect to the timing of the placement of human remains in
16 their designated grave or the sealing of the above ground
17 depository, crypt, or urn due to patron safety, the allocation
18 of cemetery staffing, liability insurance, a collective
19 bargaining agreement, or other such reasons.

20 (f) All fines imposed under this Section shall be paid 60
21 days after the effective date of the order imposing the fine.

22 (g) The Department shall deny a license or renewal
23 authorized by this Code to a person who has defaulted on an
24 educational loan or scholarship provided or guaranteed by the
25 Illinois Student Assistance Commission or any governmental
26 agency of this State in accordance with item (5) of subsection

1 (g) of Section 2105-15 of the Department of Professional
2 Regulation Law of the Civil Administrative Code of Illinois.

3 (h) In cases where the Department of Healthcare and Family
4 Services has previously determined a licensee or a potential
5 licensee is more than 30 days delinquent in the payment of
6 child support and has subsequently certified the delinquency to
7 the Department, the Department may refuse to issue or renew or
8 may revoke or suspend that person's license or may take other
9 disciplinary action against that person based solely upon the
10 certification of delinquency made by the Department of
11 Healthcare and Family Services in accordance with item (5) of
12 subsection (g) of Section 1205-15 of the Department of
13 Professional Regulation Law of the Civil Administrative Code of
14 Illinois.

15 (i) A person not licensed under this Code who is an owner
16 of a funeral establishment or funeral business shall not aid,
17 abet, assist, procure, advise, employ, or contract with any
18 unlicensed person to offer funeral services or aid, abet,
19 assist, or direct any licensed person contrary to or in
20 violation of any rules or provisions of this Code. A person
21 violating this subsection shall be treated as a licensee for
22 the purposes of disciplinary action under this Section and
23 shall be subject to cease and desist orders as provided in this
24 Code, the imposition of a fine up to \$10,000 for each violation
25 and any other penalty provided by law.

26 (j) The determination by a circuit court that a licensee is

1 subject to involuntary admission or judicial admission as
2 provided in the Mental Health and Developmental Disabilities
3 Code, as amended, operates as an automatic suspension. The
4 suspension may end only upon a finding by a court that the
5 licensee is no longer subject to the involuntary admission or
6 judicial admission and issues an order so finding and
7 discharging the licensee, and upon the recommendation of the
8 Board to the Secretary that the licensee be allowed to resume
9 his or her practice.

10 (k) In enforcing this Code, the Department, upon a showing
11 of a possible violation, may compel an individual licensed to
12 practice under this Code, or who has applied for licensure
13 under this Code, to submit to a mental or physical examination,
14 or both, as required by and at the expense of the Department.
15 The Department may order the examining physician to present
16 testimony concerning the mental or physical examination of the
17 licensee or applicant. No information shall be excluded by
18 reason of any common law or statutory privilege relating to
19 communications between the licensee or applicant and the
20 examining physician. The examining physicians shall be
21 specifically designated by the Department. The individual to be
22 examined may have, at his or her own expense, another physician
23 of his or her choice present during all aspects of this
24 examination. The examination shall be performed by a physician
25 licensed to practice medicine in all its branches. Failure of
26 an individual to submit to a mental or physical examination,

1 when directed, shall result in an automatic suspension without
2 hearing.

3 A person holding a license under this Code or who has
4 applied for a license under this Code who, because of a
5 physical or mental illness or disability, including, but not
6 limited to, deterioration through the aging process or loss of
7 motor skill, is unable to practice the profession with
8 reasonable judgment, skill, or safety, may be required by the
9 Department to submit to care, counseling, or treatment by
10 physicians approved or designated by the Department as a
11 condition, term, or restriction for continued, reinstated, or
12 renewed licensure to practice. Submission to care, counseling,
13 or treatment as required by the Department shall not be
14 considered discipline of a license. If the licensee refuses to
15 enter into a care, counseling, or treatment agreement or fails
16 to abide by the terms of the agreement, the Department may file
17 a complaint to revoke, suspend, or otherwise discipline the
18 license of the individual. The Secretary may order the license
19 suspended immediately, pending a hearing by the Department.
20 Fines shall not be assessed in disciplinary actions involving
21 physical or mental illness or impairment.

22 In instances in which the Secretary immediately suspends a
23 person's license under this Section, a hearing on that person's
24 license must be convened by the Department within 15 days after
25 the suspension and completed without appreciable delay. The
26 Department shall have the authority to review the subject

1 individual's record of treatment and counseling regarding the
2 impairment to the extent permitted by applicable federal
3 statutes and regulations safeguarding the confidentiality of
4 medical records.

5 An individual licensed under this Code and affected under
6 this Section shall be afforded an opportunity to demonstrate to
7 the Department that he or she can resume practice in compliance
8 with acceptable and prevailing standards under the provisions
9 of his or her license.

10 (Source: P.A. 96-863, eff. 3-1-10; 96-1463, eff. 1-1-11.)

11 (225 ILCS 41/15-76)

12 (Section scheduled to be repealed on January 1, 2013)

13 Sec. 15-76. Vehicle traffic control. A funeral director
14 licensee or funeral director and embalmer licensee planning an
15 ~~a~~ interment, inurnment, or entombment at a cemetery shall use
16 his or her ~~its~~ reasonable best efforts to ensure that funeral
17 processions entering and exiting the cemetery grounds do not
18 obstruct traffic on any street for a period in excess of 10
19 minutes, except where such funeral procession is continuously
20 moving or cannot be moved by reason of circumstances over which
21 the licensee ~~cemetery authority~~ has no reasonable control. The
22 ~~funeral director licensee or funeral director and embalmer~~
23 licensee arranging funeral processions to the cemetery shall
24 use his or her ~~its~~ reasonable best efforts to ~~help~~ prevent
25 multiple funeral processions from arriving at the cemetery

1 simultaneously. Notwithstanding any provision of this Code Act
2 to the contrary, any ~~funeral director licensee or funeral~~
3 ~~director and embalmer~~ licensee who violates the provisions of
4 this Section shall be guilty of a business offense and receive
5 ~~punishable by~~ a fine of not more than \$500 for each offense.

6 (Source: P.A. 96-863, eff. 3-1-10.)

7 (225 ILCS 41/15-77)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 15-77. Method of payment, receipt. No licensee shall
10 require payment for any goods or services by cash only.
11 Licensees ~~Each licensee subject to this Section~~ shall permit
12 payment by at least one other option, including, but not
13 limited to, personal check, cashier's check, money order, or
14 credit or debit card. In addition to the statement of services,
15 the licensee shall provide a receipt to the consumer upon
16 payment in part or in full, ~~whatever the case may be.~~

17 (Source: P.A. 96-1463, eff. 1-1-11.)

18 (225 ILCS 41/15-80)

19 (Section scheduled to be repealed on January 1, 2013)

20 Sec. 15-80. Statement of place of practice; roster. Each
21 applicant for a funeral director and embalmer's license shall
22 with his or her application submit a statement of the place of
23 practice, ownership, names and license numbers of all funeral
24 directors and embalmers and funeral directors associated with

1 the applicant.

2 The Department shall maintain a roster of names and
3 addresses of all persons who hold valid licenses and all
4 persons whose licenses have been suspended or revoked within
5 the previous year. This roster shall be available upon request
6 and payment of the required fee. ~~The Department shall keep a~~
7 ~~record, which shall be open to public inspection at all~~
8 ~~reasonable times, of its proceedings relating to the issuance,~~
9 ~~refusal, renewal, suspension and revocation of licenses. This~~
10 ~~record shall also contain the name, known place of practice and~~
11 ~~residence, and the date and number of the license of every~~
12 ~~licensed funeral director and embalmer, licensed funeral~~
13 ~~director, and licensed funeral director and embalmer intern in~~
14 ~~this State.~~

15 ~~The Department shall publish an annual list of the names~~
16 ~~and addresses of all licensees registered by it under the~~
17 ~~provisions of this Code, and of all persons whose licenses have~~
18 ~~been suspended or revoked within the past year, together with~~
19 ~~other information relative to the enforcement of the provisions~~
20 ~~of this Code as it may deem of interest to the public. One list~~
21 ~~shall be mailed to each local registrar of vital statistics~~
22 ~~upon request by the registrar. Lists shall also be mailed by~~
23 ~~the Department to any person in the State upon request.~~

24 (Source: P.A. 93-268, eff. 1-1-04.)

1 (Section scheduled to be repealed on January 1, 2013)

2 Sec. 15-85. Duties of public institution; regulation by
3 local government. No provision of this Code shall apply to, or
4 in any way interfere with, the duties of any officer of any
5 public institution; nor with the duties of any officer of a
6 medical college, county medical society, anatomical
7 association, college of embalming, or any other recognized
8 person carrying out the laws of the State of Illinois
9 prescribing the conditions under which indigent dead human
10 bodies are held subject for scientific or anatomical study; nor
11 with the customs or rites of any religious sect in the funeral
12 and burial of their dead.

13 (Source: P.A. 96-1463, eff. 1-1-11.)

14 (225 ILCS 41/15-91)

15 (Section scheduled to be repealed on January 1, 2013)

16 Sec. 15-91. Denial of license. If the Department determines
17 that an application for licensure should be denied pursuant to
18 Section 15-75, then the applicant shall be sent a notice of
19 intent to deny license ~~or exemption from licensure~~ and the
20 applicant shall be given the opportunity to request, within 20
21 days of the notice, a hearing on the denial. If the applicant
22 requests a hearing, then the Secretary shall schedule a hearing
23 within 30 days after the request for a hearing, unless
24 otherwise agreed to by the parties. The Secretary shall have
25 the authority to appoint an attorney duly licensed to practice

1 law in the State of Illinois to serve as the hearing officer.
2 The hearing officer shall have full authority to conduct the
3 hearing. The hearing shall be held at the time and place
4 designated by the Secretary. The Secretary shall have the
5 authority to prescribe rules for the administration of this
6 Section.

7 (Source: P.A. 96-1463, eff. 1-1-11.)

8 (225 ILCS 41/15-115 new)

9 Sec. 15-115. Confidentiality. All information collected
10 by the Department in the course of an examination or
11 investigation of a licensee or applicant, including, but not
12 limited to, any complaint against a licensee filed with the
13 Department and information collected to investigate any such
14 complaint, shall be maintained for the confidential use of the
15 Department and shall not be disclosed. The Department shall not
16 disclose the information to anyone other than law enforcement
17 officials, regulatory agencies that have an appropriate
18 regulatory interest as determined by the Secretary, or a party
19 presenting a lawful subpoena to the Department. Information and
20 documents disclosed to a federal, State, county, or local law
21 enforcement agency shall not be disclosed by the agency for any
22 purpose to any other agency or person. A formal complaint filed
23 against a licensee by the Department or any order issued by the
24 Department against a licensee or applicant shall be a public
25 record, except as otherwise prohibited by law.

1 (225 ILCS 41/20-15)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 20-15. Home rule. The regulation and licensing
4 provided for in this Code are exclusive powers and functions of
5 the State. A home rule unit may not regulate or license funeral
6 directors, funeral director and embalmers, ~~customer service~~
7 ~~employees,~~ or any activities relating to the services of
8 funeral directing and embalming. This Section is a denial and
9 limitation of home rule powers and functions under subsection
10 (h) of Section 6 of Article VII of the Illinois Constitution.
11 (Source: P.A. 96-1463, eff. 1-1-11.)

12 (225 ILCS 41/10-40 rep.)

13 (225 ILCS 41/15-71 rep.)

14 (225 ILCS 41/15-110 rep.)

15 Section 10. The Funeral Directors and Embalmers Licensing
16 Code is amended by repealing Sections 10-40, 15-71, and 15-110.

17 Section 15. The Cemetery Oversight Act is amended by
18 changing Section 25-75 as follows:

19 (225 ILCS 411/25-75)

20 (Section scheduled to be repealed on January 1, 2021)

21 Sec. 25-75. Cemetery Relief Fund.

22 (a) A special income-earning fund is hereby created in the

1 State treasury, known as the Cemetery Relief Fund.

2 (b) Beginning on July 1, 2011, and occurring on an annual
3 basis every year thereafter, three percent of the moneys in the
4 Cemetery Oversight Licensing and Disciplinary Fund shall be
5 transferred ~~deposited~~ into the Cemetery Relief Fund.

6 (c) All monies transferred ~~deposited~~ into the fund together
7 with all accumulated undistributed income thereon shall be held
8 as a special fund in the State treasury. The fund shall be used
9 solely for the purpose of providing grants to units of local
10 government and not-for-profit organizations, including, but
11 not limited to, not-for-profit cemetery authorities, to clean
12 up cemeteries that have been abandoned, neglected, or are
13 otherwise in need of additional care.

14 (d) The grant program shall be administered by the
15 Department.

16 (e) In the event there is a structural surplus in the
17 Cemetery Oversight Licensing and Disciplinary Fund, the
18 Department may expend moneys out of the Cemetery Oversight
19 Licensing and Disciplinary Fund for the purposes described in
20 subsection (c) of this Section.

21 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."